**Medicaid Burial Assets Desk Aid**

Burial Trusts (MEH 16.5.1)

* Exempt all burial trusts made in Wisconsin that are irrevocable by Wisconsin or other state’s laws as noted in the trust agreement.
* Interest and dividends are irrevocable if they accrue to the irrevocable trust (trust agreement must specify they are irrevocable) and are exempt if irrevocable. If interest and dividends are revocable, they are a countable asset.
* For non-spousal impoverishment cases - allows a Medicaid Beneficiary to deposit up to $4,500 (face value must not exceed this amount) into an irrevocable trust account to pay for funeral and burial expenses. Any principle amount over $4,500 is a countable asset.

Burial Insurance (MEH 16.5.2)

* A contract whose terms preclude the use of its proceeds for anything other than burial expenses.
* Typically funded by an annuity or life insurance policy
* Will not have a cash surrender value
* Will not have a secondary beneficiary
* Will not designate a private party, who is expected, but not legally required to use the funds for the burial costs of the insured
* Irrevocably assigned to the policy holder to a funeral expense trust established by the insurance company
* Trustee or administrator must pay all proceeds towards the policy holder’s funeral expenses. Any remaining funds are paid to the policy holder’s estate
* Counted as unavailable asset if language states it is irrevocable and proceeds must be used for burial expenses.

Life Insurance Funded Burial Contracts (MEH 16.5.3)

* A burial contract funded by life insurance proceeds. Allows you to contract for funeral and burial expenses and guarantee payment with your life insurance policy.
	+ Must contact the following in the burial contract:
		- Name of funeral home and the insurer
		- Statement of funeral goods and services
		- Effect of canceling or surrendering the insurance policy
		- Effect of changing the assignment of policy proceeds
		- Nature and extent of any price guarantees for goods and services
* Irrevocable LIFBC (MEH 16.5.3.1) is unavailable because the member no longer owns it.
* Burial Space exemption may apply, depending on the nature of the contract. Any portion of the contract that represents the purchase of a burial space is exempt and does not apply on the burial funds exclusion (MEH 16.5.5)
* If the face value of the burial funds portion exceeds $1500, it offsets the burial fund exclusion
* If the face value does not $1500, determine the cash surrender value (CSV) of the LIFBC at the time it was assigned:
	+ Apply the CSV to burial spaces
	+ Apply the burial fund logic to any remaining CSV
	+ Apply the CSV to any itemized goods and services, not accounted for by burial spaces and burial funds
	+ Apply divestment policy to any remaining CSV

**Example 1**: Mr. Atkins has irrevocably assigned the ownership of his life insurance policy to a funeral home to fund a burial contract. The face value of the LIFBC is $3,000. The Statement of Funeral Goods and Services shows $3,000 for the pre-arrangement of the funeral, of which $1,300 is designated for a casket and $1,700 for funeral expenses (services and cash advances for such things as flowers and the obituary). The $1,700 funeral expense portion reduces the $1,500 burial fund exclusion (see [Section 16.5.5 Burial Funds](http://www.emhandbooks.wisconsin.gov/meh-ebd/policy_files/16/meh_16.5_burial_assets.htm#16_5_5)), and so $1,500 of this LIFBC will be considered his exempt burial fund. The $1,300 casket does not reduce the burial fund exclusion (see [Section 16.5.5 Burial Funds](http://www.emhandbooks.wisconsin.gov/meh-ebd/policy_files/16/meh_16.5_burial_assets.htm#16_5_5)) and is not a countable asset because it is a purchase of a burial space.

Face Value: $3,000

Burial Spaces: -$1,300 (MEH 16.5.4)

Remainder: $1,700

Burial Fund: -$1,500 (MEH 16.5.5)

Remainder: $200

Because the LIFBC was assigned irrevocably, determine if Mr. Atkins is receiving other goods or services at fair market value for the remaining $200 designated for funeral expenses. If he is not receiving goods or services at fair market value, consider the remaining $200 divestment (see [Section 17.13.2 Revocable Trusts](http://www.emhandbooks.wisconsin.gov/meh-ebd/policy_files/17/meh_17.13_trusts.htm#17_13_2)).

**Example 2:** Mr. Atkins has irrevocably assigned the ownership of his life insurance policy to a funeral home to fund a burial contract. The face value and the cash value of the LIFBC is $3,200. The Statement of Funeral Goods and Services shows $3,000 for the pre-arrangement of the funeral. A divestment in the amount of $200 occurred because the cash value of the LIFBC exceeds the expenses of the pre-arrangement of the funeral.

* Revocable assignment of Life Insurance Funded Burial Contracts
	+ Identify all burial assets and life insurance policies the member may have.
	+ Apply the Burial Fund logic

**Example 3:** Mrs. White has a revocably assigned LIFBC and no other burial assets or life insurance policies. The face value of the LIFBC is $3,000 and the CSV is $1,700. The total value of the LIFBC is equal to the CSV of $1,700.

The burial contract designates $1,300 for a casket and $1,700 for funeral expenses. The burial space exclusion (see [Section 16.5.4 Spaces](http://www.emhandbooks.wisconsin.gov/meh-ebd/policy_files/16/meh_16.5_burial_assets.htm#16_5_4)) does not apply to Mrs. White’s contract, but $1,500 of the CSV is exempt under the burial funds exclusion (see [Section 16.5.5 Burial Funds](http://www.emhandbooks.wisconsin.gov/meh-ebd/policy_files/16/meh_16.5_burial_assets.htm#16_5_5)). The remaining $200 of the CSV is a countable asset.

* The value of the burial contract is equal to the CSV of the life insurance policy. If the face value of all life insurance policies is $1,500 or less, exempt the CSV under the life insurance exclusion.
* If one or more burial spaces are included in the statement of funeral goods and services, the burial exclusion does not apply because the provider has not been paid so no purchase of burial spaces has been made.

Burial Spaces (MEH 16.5.4)

* Burial Space exemptions include the following:
	+ Plots, vaults, caskets, crypts, mausoleums, urns, or other repositories customarily used for the remains of deceased persons
	+ Necessary reasonable improvements upon the burial space with items such as headstones, markers, plaques
	+ Arrangements for opening and closing the gravesite
* Exempt multiple spaces under the following circumstances:
	+ The space must be owned by an EBD person or that person’s spouse, or when the EBD person is a minor, the minor’s parents
	+ Both a plot and a mausoleum cannot be exempted for the same person
	+ Each person may have more than one type of space
	+ The space must be for the use of the EBD member or one of the following:
		- Spouse,
		- Minor or adult natural, adoptive, or stepchild
		- Brother or sister
		- Natural or adoptive parent
		- Spouse of any of the above

Burial Funds (MEH 16.5.5)

* Burial funds are set aside for burial expenses. Both the EBD member and their spouse may have one burial fund
* To find the amount of a burial fund that can be exempted, add:
	+ The face value of the person’s irrevocable burial trusts
	+ The face value of all of his or her life insurance policies who cash value is exempt
	+ The face value of any exempt burial insurance
	+ The CSV of any revocably assigned LIFBC
	+ The burial funds portion of irrevocably assigned LIFBC
* If the total value of the above items is $1,500 or more, do not exempt any more burial funds.
* If less, subtract the total from $1,500. The result is the amount of the burial fund that is exempt.

**Example 4:** This time, Mrs. Smith, in addition to her $1,600 savings account designated as a burial fund, has a $300 irrevocable burial trust and two life insurance policies with a combined face value of $900.

  $  300  Irrevocable trust

  + 900  Face value life insurance

$1,200

The total is less than $1,500, so determine what portion of Mrs. Smith’s savings account can be exempted as a burial fund.

 $1,500  Maximum burial fund exclusion

-  1,200

$    300

Mrs. Smith can exempt $300 from her savings account as a burial fund. The remaining $1,300 is an available asset.